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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

R.S.A. No. 2626 of 2007

Date of decision:23.8.2007

Bimla Devi and another **...Appellants**

Versus

Nathiya and others **...Respondents**

CORAM: HON'BLE MR.JUSTICE RAJESH BINDAL

Present: Mr. Sandeep Sharma, Advocate for the appellants.

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RAJESH BINDAL, J.

This is defendants second appeal against the concurrent findings of fact by both the Courts below whereby suit filed by respondent No.1/plaintiff for permanent injunction was decreed by both the Courts below.

The claim made in the suit was that respondents No.1 and 2 in the present appeal are owners in possession of plot comprising in Khewat No.268, Khatoni No.297, Khasra No.157 measuring 8 Marla situated within the revenue estate of village Kheri, Tehsil and District Rewari. It was claimed that they had inherited the plot after the death of their father in 1982. It came on record during the course of evidence that infact respondents No.1 and 2 owned plot bearing Khasra No.157 and the appellants owned plot bearing Khasra No.159 and it was during pendency of the suit that the appellants took over forcible possession of the plot bearing Khasra No.157 inspite of interim order passed by the Court. Accordingly, learned trial Court directed that possession of the land be delivered to respondents No.1 and 2. In appeal also, the findings recorded by the trial Court were upheld. Even the dispute raised by the appellants regarding the demarcation of the property was also considered and rejected by the Courts below as the identification of the property was not in dispute.

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Both the properties are having different numbers and the case of the appellants was not that plot owned by them was adjacent to that of the respondents rather it was admitted case of the appellants before the Courts below that street runs between the plots of the parties. Learned counsel for the appellants tried to argue that findings recorded by both the Courts below are perverse, however, he was not able to substantiate the same as it could not be denied by him that both the parties owned different plots and the respondents were entitled to enjoy the possession free from all encumbrances of the property owned by them. The apprehension of the appellants that under the garb of the decree, respondents will encroach upon the plot of the appellants is without any basis as the same is not born out from the record.

Accordingly, I do not find any merit in the present appeal and the same is dismissed.

August 23, 2007 **(Rajesh Bindal)**
Pka **Judge**